

15 March 2013

Statutory Audit Investigation
Competition Commission
London
WC1B 4AD

By e-mail to auditors@cc.gsi.gov.uk

Statutory Audit Services Market Investigation – Provisional findings and possible remedies

Dear Sirs

I am writing on behalf of AFME (the Association for Financial Markets in Europe) to comment on the Provisional Findings and Possible Remedies Notices published on 22 February in relation to the Statutory Audit Services Market Investigation. AFME is, as you know, the leading European trade association for firms active in investment banking and securities trading, and thus represents the shared interests of a broad range of participants in the wholesale financial markets.

While recognising the statutory constraints imposed on the work of the Competition Commission, we are surprised and disappointed that neither the Notice of Provisional Findings nor the Notice of Possible Remedies makes any reference to the fact that many FTSE 350 firms (including practically all of the largest ones) have significant interests outside the UK, and will therefore be directly and/or indirectly subject to non-UK regulation which may affect, and potentially restrict, their choice of statutory auditor in the UK. This is particularly the case for those FTSE firms whose primary listing is on a non-UK exchange; while this may be a relatively small proportion of the 350, they include some of the very largest firms, and their share of market capitalisation (and of other relevant measures, such as capital employed, turnover, and employees) will be correspondingly very much larger.

We note in particular the comment in paragraph 33 of the Notice of Possible Remedies that you have “not received any significant evidence to suggest that a FTSE 350 company’s choice of audit firm is normally substantially

constrained". While this may be true for the great majority of the 350, the choice for the largest global firms is in practice very limited: you will recall from the oral evidence presented at our hearing on 29 June 2012 that the majority of such firms (at least in the financial sector) believe that their choice of auditor is in practice restricted, at the very most, to one of the "Big Four". Many of these firms already use a second Big Four auditor to carry out non-audit work, and may have reservations (because of perceived capability, competitive issues etc) about using another: it is therefore quite possible that the Audit Committee of such a global firm, when considering a possible change of auditors, could find their choice limited to, at best, a single alternative. While you recognise, in paragraph 33, that "there may be valid instances where the choice of audit firm is substantially constrained making it impractical to switch auditor at that time", we strongly request that your final report makes specific reference to the very limited choice of auditor which the largest companies believe is available to them.

A separate point is the potential interaction with proposed EU legislation which sets out to address, at least in part, many of the same issues that are covered by your remit. Given the relatively advanced stage of the EU proposals, the extensive debate (not least within the European Parliament) on these topics, and the very significant reservations that many UK companies and other stakeholders have expressed about certain aspects of the EU proposals (particularly those concerning mandatory rotation), we find it surprising that you have not covered this topic in more detail. Both the European Commission and the European Parliament are, as you know, keen that these EU proposals should become law in the near future in which case, as you note in paragraph 13, the EU legislation could significantly change the environment in the UK.

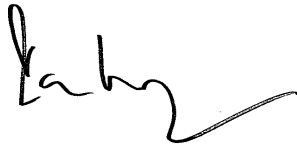
While you note that, in such an event, the "remedies set out in (your) report may be subject to material change", we are surprised that you have not seen fit to compare your own proposals with those contained in the pending EU legislation. Subject to your own statutory constraints, might not a more useful approach have been to consider the current EU proposals, to assess how far you feel they would provide remedies for the potential AEC that you have identified, and then to suggest what amendments and/or additions to the EU proposals the Competition Commission feels would be appropriate for implementation in this country?

Given that only 10 AFME members (out of a total of 173) are included in the FTSE 350, and are thus likely to be directly affected by any final CC remedies, we do not feel we should comment in detail on six of the seven possible remedies which are set out in paragraph 17 of the Notice of Potential Remedies: with the exception of the proposal for mandatory rotation, we have no problem with the general thrust of these suggestions.

For the reasons set out in our earlier submissions, and reinforced in a recent AFME/EBF letter to the European Council¹, we remain strongly opposed to the principle of mandatory rotation of auditors, particularly insofar as this would affect the largest multinational financial groups, where we believe mandatory rotation could be counterproductive, with serious risks of significant disruption of the audit process and a reduction of overall audit quality. If the CC does proceed with this remedy, we would accordingly strongly request that the FRC be given powers, as suggested in paragraph 33, to grant relief from the requirement to switch auditor.

I hope the above comments are helpful, and would of course be pleased to supply you with further detail on any aspects where you would like clarification.

Yours faithfully



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¹ See the attached letter of 27 February, which was sent to members of the European Council.